

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA)	
)	
V.)	CR. No.: 2:06cr232-MHT
)	
WILEY THOMAS, JR.)	

UNOPPOSED MOTION TO CONTINUE TRIAL

COMES NOW the Defendant, Wiley Thomas Jr., by and through undersigned counsel, Kevin L. Butler, and pursuant to 18 U.S.C. §§ 3161(h)(1)(A), 3161(h)(1)(I), 3161(h)(4), 3161(h)(8)(B)(I), 3161(h)(8)(B)(ii) and 3161(h)(8)(B)(iv) and respectfully moves this Court to continue the trial of this matter past the currently scheduled February 5, 2007 trial term. In support of this Motion, defendant would show the following:

1. This case will not proceed to trial. After good faith negotiations, the parties have tentatively reached a negotiated plea agreement.
2. Mr. Thomas is seventy-four (74) years old. He is the retired director of the Montgomery Housing Authority. He is not presently detained.
3. Relevant and material to the terms of the plea agreement and the reasonableness of any potential sentence under 18 U.S.C. § 3553 will be a clear determination of the state of Mr. Thomas' physical health and mental acuity.¹
4. However, a complete physical and psychiatric examination can not be completed prior to the presently scheduled February 5, 2007 trial date.

¹ At this time, undersigned counsel believes Mr. Thomas is competent to proceed.

5. Therefore, both parties request additional time to finalize the plea agreement. For this reason, it is in the interest of justice to continue trial in this matter.

6. Counsel for the government, Stephen Feaga, does not oppose this motion.

7. Requests for a continuance are addressed to the sound discretion of the trial court, *United States v. Darby*, 744 F.2d 1508, 1521 (11th Cir. 1984), *reh'g denied* 749 F.2d 733, *cert. denied*, 471 U.S. 1100 (1985). Pursuant to 18 U.S.C. §§ 3161(h)(1)(A), 3161(h)(1)(I), 3161(h)(4), 3161(h)(8)(B)(I), 3161(h)(8)(B)(ii) and 3161(h)(8)(B)(iv), if it is in the interest of justice, this court has authority to continue trial to allow counsel sufficient time to complete psychiatric and physical examinations so as to insure a defendant's competency and allow parties to fashion a plea agreement that addresses any relevant and material physical and mental health issues.

FOR THE REASONS, Mr. Thomas respectfully requests this Motion be granted and the trial in this matter be continued from the February 5, 2007 trial docket until the June 4, 2007, trial term.

Dated this 18th day of January 2007.

Respectfully submitted,

s/ Kevin L. Butler
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CERTIFICATE OF SERVICE

I hereby certify that on January 18, 2007, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Stephen P. Feaga, Esquire
Assistant United States Attorney
One Court Square, Suite 201
Montgomery, Alabama 36104

Respectfully submitted,

s/ Kevin L. Butler
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